APPEAL NO. 020932
FILED JUNE 6, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 19, 2002. With respect to the issues before him, the hearing officer determined that the respondent's (claimant) compensable injury of _____, extends to and includes urinary and bowel incontinence and that the claimant's impairment rating (IR) is 62% as certified by the designated doctor selected by the Texas Workers' Compensation Commission. In its appeal, the appellant (carrier) asserts error in each of those determinations. The appeals file does not contain a response to the carrier's appeal from the claimant. At the hearing, the parties agreed that the claimant reached maximum medical improvement on July 10, 2000.

DECISION

Affirmed.

The hearing officer did not err in determining that the compensable injury extends to and includes urinary and bowel incontinence. That issue presented a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. Section 410.165(a) provides that the hearing officer is the sole judge of the weight and credibility of the evidence. As the fact finder, the hearing officer resolves the conflicts and inconsistencies in the evidence and determines what facts the evidence has established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The hearing officer was acting within his province as the finder of fact in crediting the evidence demonstrating the causal relationship between the claimant's urinary and bowel incontinence and the compensable injury. Nothing in our review of the record demonstrates that the hearing officer's extent-of-injury determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb that determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The success of the carrier's argument that the hearing officer erred in giving presumptive weight to the designated doctor's 62% IR is largely dependent upon the success of its argument that the compensable injury does not extend to urinary and bowel incontinence. However, the carrier also argues that the designated doctor erred in awarding a Class 4 bladder impairment under the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association. The carrier maintains that the claimant only has intermittent dribbling and no voluntary control of the bladder as opposed to continuous dribbling and no voluntary control of the bladder. The decision of whether to rate the claimant's bladder impairment under Class 3 or Class 4 requires the exercise of medical judgment. By giving presumptive weight to the designated doctor's report under Sections 408.123 and 408.125, the 1989 Act establishes a system whereby the

designated doctor's resolution of such issues is accepted, unless the great weight of the medical evidence is to the contrary. In this instance, we cannot agree that the great weight of the other evidence is contrary to the designated doctor's opinion. As such, the hearing officer did not err in giving presumptive weight to the designated doctor's 62% IR.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TEXAS PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION for Reliance National Indemnity Company, an impaired carrier** and the name and address of its registered agent for service of process is

MARVIN KELLEY, EXECUTIVE DIRECTOR
TPCIGA
9120 BURNET ROAD
AUSTIN, TEXAS 78758.

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Michael B. McShane
Appeals Judge